

# **Committee on Resources**

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## **Witness Statement**

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### **STATEMENT OF MR. KENNETH J. FANNING**

#### **ON BEHALF OF**

#### **ALASKA PROFESSIONAL HUNTERS ASSOCIATION**

#### **BEFORE THE**

#### **COMMITTEE ON RESOURCES**

#### **U.S. HOUSE OF REPRESENTATIVES**

**February 9, 2000**

The Alaska Professional Hunters Association ("APHA") appreciates the opportunity to testify before the Committee regarding the agency assault on the section 1110(a) access guarantee in ANILCA.

APHA represents over 600 guides, outfitters and others interested in hunting, recreational opportunities and wildlife conservation in Alaska. Many of our members routinely use airplanes and motorboats for access into Preserve units for hunting and fishing and Park units for fishing. These forms of Congressionally guaranteed access are absolutely essential to our ability to provide services to the outfitted public. Our members operate in most of the National Park Service (NPS) units including Noatak, Gates of the Arctic, Katmai, Lake Clark and Cape Krusenstern. NPS proposals to radically alter the implementation of section 1110(a) will affect our members and the public who use our services in all of these units.

We object strongly to the regulatory definition of "traditional activities" set forth in the NPS proposed rule in 64 Fed. Reg. 61563. The new regulatory definition seeks to alter the definition of "traditional activities" so that only "utilitarian" activities with a "cultural" component qualify. However, this change is not only unnecessary but also unjustifiably abrogates the rights of American citizens to access public lands. Moreover, this proposed change is a radical and ill-advised departure from established and time honored agency policy and practice and is entirely in response to a desire to prohibit a particular use in a particular park (i.e., snowmachines in Old Denali Park).

Congress originally expressed its intent to secure public access to public lands for public purposes in section 1110(a) of the Alaska National Interest Lands Conservation Act ("ANILCA"). Section 1110(a) of ANILCA sets forth a comprehensive definition of "traditional activities" which includes recreational pursuits such as sport fishing, hunting, picnicking and sightseeing. Thus, Congress recognized such recreational uses of public lands as legitimate "traditional" uses for these lands. Moreover, Congress determined that the public's right of access for these purposes was so fundamental and important, it clearly and unambiguously codified this right of access in section 1110(a) of ANILCA.

The ostensible purpose of this exercise is to ban the use of snowmobiles within Old Denali Park. However, the proposed regulatory definition is a clear attempt to circumvent the statutory provisions of ANILCA for all Park lands in Alaska. This proposal represents a wholesale assault on the public's right to access and enjoy its public lands without just cause or due process and as such, any change in the regulatory definition of "traditional activities" should be blocked by this Committee.

It is critical that the Committee appreciate that the proposed regulatory definition of "traditional activities" impacts much much more than snowmobile access to Denali. A major consequence of this regulatory scheme would be the unwarranted impact on airplane and motorboat use in all of Alaska's National Park Service units including parks, preserves, monuments, and wild and scenic rivers. Not only would this changed regulatory definition unjustifiably eliminate access to and enjoyment of countless spectacular locations in remote areas of Alaska park units by American citizens, but it would also fly in the face of recent expressions by Congress of its ongoing desire to preserve the established and guaranteed access provision of section 1110(a). (Congress expressly exempted Alaska from recent regulatory limitations on use of airplanes for sightseeing purposes in Lower 48 park units. See, e.g. H.R. 1000, section 803 and S. 82, section 602.)

The proposed regulatory definition is an impermissible and unwarranted restriction on the public's right to access and use public lands for traditional recreational purposes. The additional requirement that "traditional activities" must also be "utilitarian" and "cultural" will limit access to the majority of Alaska park units, over 45 million acres, to a limited and discrete class of individuals without due process and without regard to the public's right to use and enjoy its national lands.

Despite bland assurances in the NPS notice, we are persuaded that neither sport hunting nor sport fishing will be found to be "utilitarian" and "cultural." Catch and release fishing by a visiting non-resident hardly qualifies as either a utilitarian or cultural activity. Similarly, trophy hunting by a guided non-resident does not square with the quasi-subsistence definition the agency wants to attach to "traditional activity." The proposed regulations create a trap door to ultimately spring on, and eliminate, guaranteed access for this actual in fact traditional activities.

Lastly, the proposed rule is clearly inconsistent with Congressional intent as evidenced by the express language of ANILCA and is wholly unnecessary for any other legitimate purpose. Accordingly, the APHA respectfully requests that this Committee take necessary steps to block the agency from proceeding with these illegal regulations.

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